

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 6889 of 1999

Between:

1) G.Babu Rao S/o Narayana Murthy, Occ: Business

2)G.Bhasker Rao S/o Babu Rao, Occ: Business

3) G.Jagish S/o Babu Rao

(All are R/o 31-30-41, Narayana Street, Dabha Gardens, Vishakapatnam-26)

.... PETITIONERS

AND

1) The Prl. Secretary to Govt. of A.P, Revenue Department, Secretariat,
Hyderabad

2) The Commissioner, Urban Land Ceilings, Nampally, Hyderabad

3) The Spl. Officer and Competent Authority, Urban Land Ceilings,
Pedawaltair, Visakhapatnam.

4) The District Collector, Visakhapatnam

5) The Mandal Revenue Officer, Gajuwaka Mandal, Visakhapatnam

6) The Commissioner, Gajuwaka Municipality, Gajuwaka Visakhapatnam

...RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the

circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondents as illegal, arbitrary and erroneous in passing the impugned orders under Section 8(4), Final Statement under Section 9 and the Government Memo No.110303/UCI(2)/89-10, dt.26-10-1998 and declare such orders are nullity and consequently further declare that the petitioners protected land in Sy.No.49/2 (Sy.No.61/1 and 62/3 old) of Gajuwaka village, Gajuwaka Mandal and Malkapuram and Allipuram, Vishakapatnam District are outside the purview of the provisions of the Urban Land Ceilings Act, 1976 and pass such other order or orders as this Hon' ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioners: MR.C.HANUMANTHA RAO

Counsel for the Respondents: GP FOR REVENUE

The Court made the following:

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ORDER:

The first petitioner and one Yellaji Rao filed declarations under Section 6 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short, the Act). The third respondent determined the surplus and issued a draft statement under Section 8(1) of the Act and called for objections from the first petitioner and Yellaji Rao. After submission of the explanation, a final order under Section 8 (4) of the Act was passed. Aggrieved by the same, the petitioners preferred a revision under Section

34 of the Act before the Government of Andhra Pradesh. By impugned order dated 26.10.1998, the Government of Andhra Pradesh rejected the revision holding that there is no reason to revise the orders passed by the third respondent.

The learned counsel for the petitioner Sri C.Hanumantha Rao placed reliance on the judgment of this Court in **Menta Mastan Rao and another v Government of A.P.**, in support of the contention that the impugned order is liable to be set aside for non disclosure of reasons. This Court observed:

In my view, the impugned order suffers from two defects. Firstly, the order is absolutely cryptic; it does not assign any reason for rejecting the application of the petitioners. The said order is purported to be an order under Section 34 of the Act and in my view, the power under 34 is a quasi-judicial power and an authority in exercise of quasi-judicial power is under legal obligation to assign reasons for any decision taken by it in exercise of such powers. Secondly, in view of the categoric admission made in the counter affidavit filed by the second respondent that the buildings existed, on the lands in issue, prior to the implementation of the Act, and in view of the above discussed legal position and the Memorandum of the Government dated 15-2-1994, I do not understand how the Government could have legally rejected the application of the petitioners.

After perusing the impugned order, I am convinced that the third respondent could have passed the impugned order without application of mind and without assigning reasons. For this reason alone, the order passed by the Government purportedly in exercise of power under Section 34 of the Act is set aside. The matter shall stand remitted to Government of Andhra Pradesh for fresh disposal in accordance with law, within a period of eight weeks from the date of receipt of a copy of the order. It shall be open to the petitioner to raise all the grounds before the revisional authority.

The writ petition is accordingly allowed.

(V.V.S.RAO,J)

26.07.2004.

pln

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this
Monday, the Twenty Sixth of July, Two thousand and four.

To

- 1) The Prl. Secretary to Govt. of A.P, Revenue Department, Secretariat,
Hyderabad
- 2) The Commissioner, Urban Land Ceilings, Nampally, Hyderabad
- 3) The Spl. Officer and Competent Authority, Urban Land Ceilings,
Pedawaltair, Visakhapatnam.
- 4) The District Collector, Visakhapatnam
- 5) The Mandal Revenue Officer, Gajuwaka Mandal, Visakhapatnam
- 6) The Commissioner, Gajuwaka Municipality, Gajuwaka Visakhapatnam
- 7) 2 CCs to G.P for Revenue, High Court of A.P.,Hyderabad (OUT)
- 8) 2 CD copies